

OFFICE OF THE COMMISSIONER OF THE REVENUE City of Hampton, Virginia LOCAL BUSINESS TAX APPEALS LOCAL BUSINESS TAX

The Virginia General Assembly has instituted provisions that provide taxpayers¹ with an option for problem resolution, without incurring the costly time and expense that can be associated with legal proceedings. In order to be entitled to the provisions, however, an appeal must first be submitted in accordance with the administrative appeals process outlined below. You retain the right to seek correction through the Circuit Court, at all times as prescribed by law.

"Local business taxes" include machinery and tools tax, business tangible personal property tax (including, without limitation, computer equipment), merchant's capital tax, and a consumer utility tax where the amount in dispute exceeds \$2,500 other than the tax collected on mobile telecommunication service as defined in § 58.1-3812.

ADMINISTRATIVE APPEAL (Code of Virginia §58.1-3983.1)

Step One: In order to utilize the administrative appeals process, an "assessment" must have occurred. An assessment is:

A determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to written notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be. An assessment includes a return filed on behalf of the taxpayer by the local assessing officer.

Step Two: Submit in good faith a written application for review, as follows:

To: The Honorable Ross A. Mugler, Commissioner of the Revenue
At: P O Box 636 • Hampton VA 23669 or via fax to (757) 727-6330

Documenting: 1) Name and address of the taxpayer

2) Taxpayer federal identification number and local tax account number(s)

3) Power of attorney or Letter of Representation (if applicant different from taxpayer)

4) A copy of the assessment

5) Clear identification of the amount in dispute

6) Statement explaining the errors in the assessment, including but not limited to:

Facts,

Issues, and

Supporting authorities

7) Statement of the specific relief sought by the taxpayer.

When: A <u>full and complete</u> appeal must be submitted within one year from the last day of the tax year for which such assessment is made or within one year from the date of assessment,

whichever is later.

Step Three: Upon receipt, the Commissioner will conduct a full review of the facts and assertions. He may hold a conference if requested, require submission of additional information and documents, conduct an audit (or further audit), as well as gather any other evidence deemed necessary for a proper and equitable determination of the application.

Collection Activity During an Administrative Appeal

Provided a timely and complete application is made, collection activity shall be suspended by the treasurer until a final determination is issued by the commissioner of the revenue, unless the treasurer or other collection official determines that collection would be jeopardized by delay or is advised by the commissioner that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of subdivision A 2 e of § 58.1-3703.1, but no further penalty shall be imposed while collection action is suspended.

<u>CIRCUIT COURT</u> – Application to Court to Correct Erroneous Assessments (<u>Code of Virginia</u> §58.1-

Must be filed with the Clerk of the Circuit Court within 3 years from the last day of the tax year for which such assessment is made, within 1 year from the date of assessment or within 1 year of Tax Commissioner's final determination, whichever is later.

CODE OF VIRGINIA - Available through Virginia's Legislative Information System at http://leg1.state.va.us/000/src.htm.

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Revised 6/30/2005

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¹ "Taxpayer" includes a business required to collect a local consumer utility tax to the extent that the business is charged or assessed with such tax.